

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.020

Rule title "Permit Application Requirements"

Type of rule (Circle one) New **X** Amendment Rescission

Submitted by (Program director name and signature)

Larry P. Coen

Review and approval

Legal Counsel _____ **Date** _____

Division Director _____ **Date** _____

1. What is the purpose of the rulemaking?

Due to legislative changes to the "Land Reclamation Act" (the "Act") in 2001, the rules corresponding to this legislation must also be changed. The Missouri DNR Land Reclamation Program is charged with permitting, inspecting and releasing operators throughout the life of their mining activities. The purpose of these rules is to conform with the changes made by the legislature in 2001 to various statutes contained within the Act under HB 453. This amendment complies with sections 444.772, 444.774 and 444.778, RSMo by setting forth the requirements for surface mine operators in order to obtain the necessary permit from the Land Reclamation Commission.

2. Why is the rulemaking being proposed now?

The rulemaking is being proposed now in order to comply with the changes made to the "Act" in 2001.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- **Reference the Code of Federal Regulations proposed for adoption.**
- **Provide a brief statement of why the federal mandate is being adopted.**
- **Provide the web link to the federal docket for this rule or rule amendment.**
- **The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.**

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

This amendment requires that mining permit applicants increase the timeframe and extend to adjacent landowners and county or city governments public notice provisions for all new mining permits, transfer of permits, and when adding more acreage to their mine plan areas. A new concept within this amendment is the allowance for an informal public meeting with opponents of mining permits and the mining company which did not exist before. This amendment will allow for greater public input into the permitting process which did not exist before.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

Greater public participation into the permitting process is seen as the greatest effect of this proposed amendment. This is seen by the program as a positive effect for the citizens of Missouri living near non-coal surface mining operations.

8. What would happen without the rulemaking?

Short Term:

The department and the industry have already been working without the rules since the changes were made to the “Act” in 2001. Without rules to follow, this can sometimes be difficult for both the industry and the department.

Long Term:

Without rules in place the confusion on the part of the public as to what their role is in the permitting process can be a problem. Also, the industry is unsure as to what their role is and how to defend any permit action requests.

9. Are there other ways these public benefits could be obtained?

There are no federal laws or rules regarding industrial mineral surface mining in Missouri. Therefore, there are no other agencies aside from the department’s Land Reclamation Program who are empowered to regulate non-coal surface mining in the state. Because this amendment changes the permitting and public involvement process mandated by revisions to the “Act” there is no other way known to bring the rules into harmony with the existing legislation.

10. Who is affected by the rulemaking?

All commercial surface mining operators who extract and sell industrial minerals as defined in the “Act” will be subject to this amendment. There are approximately 400 permitted mining companies with approximately 900 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
Mr. Steve Rudloff – Executive Manager, Missouri Limestone Producers Association
Mr. Jerry Gregg – Environmental Manager, Central Stone Company
Mr. Chris Schwedtmann – Environmental Manager, APAC Missouri
Mr. Ted Heisel – Missouri Coalition for the Environment
Mr. David Taylor, P.C. – Environmental Attorney
Mr. Edwin Knight – Land Reclamation Commissioner
Mr. Ed Downey, P.C. – Industry Attorney
Mr. Richard Brownlee – Industry Attorney
Mr. Don Boos – MDNR, Water Pollution Control Program
Mr. Gerald Ross – Assistant Director MDC and Land Reclamation Commissioner
Ms. Kara Valentine – General counsel, MDNR/ALPD division
Mr. Larry Coen – Staff Director, Land Reclamation Program
Mr. Tom Cabanas – Mining Section Chief, Land Reclamation Program
Mr. Mike Larsen – Non-Coal Unit Chief, Land Reclamation Program
Mr. Bob Ziehmer - Missouri Department of Conservation

During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a

commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program’s email address is: mining @dnr.mo.gov.

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Formal written comments may be sent to either of the above individuals at the addresses provided. A formal public comment period of sixty (60) days is planned for these rules once they are published as proposed rules in the *Missouri Register*. Publication is expected to occur on or about April 1, 2004.

18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.030

Rule title "Bonding"

Type of rule (*Circle one*) **New** **X Amendment** **Rescission**

Submitted by (*Program director name and signature*)

Larry P. Coen

Review and approval

Legal Counsel _____ **Date** _____

Division Director _____ **Date** _____

1. What is the purpose of the rulemaking?

Due to legislative changes to the "Land Reclamation Act" (the "Act") in 2001, the rules corresponding to this legislation must also be changed. The Missouri DNR Land Reclamation Program is charged with permitting, inspecting and releasing operators throughout the life of their mining activities. The purpose of these rules is to conform with the changes made by the legislature in 2001 to various statutes contained within the Act under HB 453. This amendment sets forth bonding requirements for a surface mining permit and bond release requirements as a termination to the surface mining permit pursuant to sections 444.772 and 444.778, RSMo.

2. Why is the rulemaking being proposed now?

The rulemaking is being proposed now in order to comply with the changes made to the "Act" in 2001.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- **Reference the Code of Federal Regulations proposed for adoption.**
- **Provide a brief statement of why the federal mandate is being adopted.**
- **Provide the web link to the federal docket for this rule or rule amendment.**
- **The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.**

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

This amendment requires that either the Land Reclamation Commission or the staff director of the Land Reclamation Program may release mining companies from their bonding obligations once mining and reclamation have been completed in accordance with the “Act”.

The amendment further requires that mining companies who are seeking release of performance bonds on privately held properties (leased ground) notify the landowner(s) by certified mail that a request for release has been filed with the program and further allows any landowner thirty (30) days in order to object to the release request. This is a new requirement and is seen by the program as a positive aspect with respect to furthering public involvement in the surface mining process.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

Greater public participation into the bond release process is seen as the greatest effect of this proposed amendment. This is seen by the program as a positive effect for the citizens of Missouri owning land upon which surface mining operations exist.

8. What would happen without the rulemaking?

Short Term:

The department and the industry have already been working without the rules since the changes were made to the “Act” in 2001. Without rules to follow, this can sometimes be difficult for both the industry and the department.

Long Term:

Without rules in place the confusion on the part of landowners as to what their role is in the bond release process can be a problem.

9. Are there other ways these public benefits could be obtained?

There are no federal laws or rules regarding industrial mineral surface mining in Missouri. Therefore, there are no other agencies aside from the department’s Land Reclamation Program who are empowered to regulate non-coal surface mining in the state. Because this amendment changes the

bond release process mandated by revisions to the “Act” there is no other way known to bring the rules into harmony with the existing legislation.

10. Who is affected by the rulemaking?

All commercial surface mining operators who extract and sell industrial minerals as defined in the “Act” and who are required to post a performance bond will be subject to this amendment. There are approximately 325 permitted and bonded mining companies with approximately 600 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
Mr. Steve Rudloff – Executive Manager, Missouri Limestone Producers Association
Mr. Jerry Gregg – Environmental Manager, Central Stone Company
Mr. Chris Schwedtmann – Environmental Manager, APAC Missouri
Mr. Ted Heisel – Missouri Coalition for the Environment
Mr. David Taylor, P.C. – Environmental Attorney
Mr. Edwin Knight – Land Reclamation Commissioner
Mr. Ed Downey, P.C. – Industry Attorney
Mr. Richard Brownlee – Industry Attorney
Mr. Don Boos – MDNR, Water Pollution Control Program
Mr. Gerald Ross – Assistant Director MDC and Land Reclamation Commissioner
Ms. Kara Valentine – General counsel, MDNR/ALPD division
Mr. Larry Coen – Staff Director, Land Reclamation Program
Mr. Tom Cabanas – Mining Section Chief, Land Reclamation Program
Mr. Mike Larsen – Non-Coal Unit Chief, Land Reclamation Program
Mr. Bob Ziehmer - Missouri Department of Conservation

During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program’s email address is: mining @dnr.mo.gov.

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Formal written comments may be sent to either of the above individuals at the addresses provided. A formal public comment period of sixty (60) days is planned for these rules once they are published as proposed rules in the *Missouri Register*. Publication is expected to occur on or about April 1, 2004.

18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.040

Rule title "Permit Review Process"

Type of rule (*Circle one*) **New** **X Amendment** **Rescission**

Submitted by (*Program director name and signature*)

Larry P. Coen

Review and approval

Legal Counsel _____ **Date** _____

Division Director _____ **Date** _____

1. What is the purpose of the rulemaking?

Due to legislative changes to the "Land Reclamation Act" (the "Act") in 2001, the rules corresponding to this legislation must also be changed. The Missouri DNR Land Reclamation Program is charged with permitting, inspecting and releasing operators throughout the life of their mining activities. The purpose of these rules is to conform with the changes made by the legislature in 2001 to various statutes contained within the Act under HB 453. This amendment sets forth the requirements for review of the mining permit application and the approval and denial process of same pursuant to section 444.773, RSMo.

2. Why is the rulemaking being proposed now?

The rulemaking is being proposed now in order to comply with the changes made to the "Act" in 2001.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- **Reference the Code of Federal Regulations proposed for adoption.**
- **Provide a brief statement of why the federal mandate is being adopted.**
- **Provide the web link to the federal docket for this rule or rule amendment.**
- **The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.**

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

This amendment requires the staff director of the program to adhere to a specified timeframe when making his decision on the issuance or denial of a mining permit application. The timeframe specified in this amendment is forty-five (45) days. This is seen as having a positive effect on the timeliness of permit reviews and should aid the industry and the program in that it will reduce the possibility of a permit backlog for this industry.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

Timeliness of permit processing is seen as the greatest effect of this proposed amendment.

8. What would happen without the rulemaking?

Short Term:

The department and the industry have already been working without the rules since the changes were made to the “Act” in 2001. Without rules to follow, this can sometimes be difficult for both the industry and the department.

Long Term:

Without a defined process for permit reviews and timeframes to do so, it is possible that a permitting backlog could develop.

9. Are there other ways these public benefits could be obtained?

There are no federal laws or rules regarding industrial mineral surface mining in Missouri. Therefore, there are no other agencies aside from the department’s Land Reclamation Program who are empowered to regulate non-coal surface mining in the state. Because this amendment changes the permit review process mandated by revisions to the “Act” there is no other way known to bring the rules into harmony with the existing legislation.

10. Who is affected by the rulemaking?

All commercial surface mining operators who extract and sell industrial minerals as defined in the “Act” and who are required to post a performance bond will be subject to this amendment. There are

approximately 400 permitted and bonded mining companies with approximately 900 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
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Mr. Larry Coen – Staff Director, Land Reclamation Program
Mr. Tom Cabanas – Mining Section Chief, Land Reclamation Program
Mr. Mike Larsen – Non-Coal Unit Chief, Land Reclamation Program
Mr. Bob Ziehmer - Missouri Department of Conservation

During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program’s email address is: mining @dnr.mo.gov.

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18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.050

Rule title "Performance Requirements"

Type of rule (*Circle one*) New **X** Amendment Rescission

Submitted by (*Program director name and signature*)

Larry P. Coen

Review and approval

Legal Counsel _____ Date _____

Division Director _____ Date _____

1. What is the purpose of the rulemaking?

Due to legislative changes to the "Land Reclamation Act" (the "Act") in 2001, the rules corresponding to this legislation must also be changed. The Missouri DNR Land Reclamation Program is charged with permitting, inspecting and releasing operators throughout the life of their mining activities. The purpose of these rules is to conform with the changes made by the legislature in 2001 to various statutes contained within the Act under HB 453. This rule sets forth the requirements that a surface mine operator must meet to protect the environment and restore the surface-mined land by setting standards for post-mining land use, backfilling and grading, topsoiling requirements, sediment and water management control, protection of adjacent properties, temporary site stabilization, and time extension criteria pursuant to section 444.760--444.790, RSMo.

2. Why is the rulemaking being proposed now?

The rulemaking is being proposed now in order to comply with the changes made to the "Act" in 2001.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- Reference the Code of Federal Regulations proposed for adoption.
- Provide a brief statement of why the federal mandate is being adopted.
- Provide the web link to the federal docket for this rule or rule amendment.
- The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

This amendment requires the staff director of the program to review and approve or disapprove plans for temporary mine site stabilization when a mine site will be idled for an extended period of time. Temporary site stabilization is a new concept within this amendment which did not exist before. The environmental benefits are such that through a site stabilization plan and the implementation of such a plan, off site impacts to adjoining properties and stream courses adjacent to the mine site will be minimized. Final reclamation would be delayed but only for a good justifiable cause and the negative environmental impacts from wind and waterborne sediment would be minimized.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

Mine site stabilization and greater flexibility in meeting the needs of the mining industry due to market conditions are seen as the greatest effects of this proposed amendment.

8. What would happen without the rulemaking?

Short Term:

The department and the industry have already been working without the rules since the changes were made to the “Act” in 2001. Without rules to follow, this can sometimes be difficult for both the industry and the department.

Long Term:

Without a defined process for industry to request relief from final reclamation at mine sites which are only operated on a periodic basis, the long term effects would be a loss of mineral resource and an economic hardship for certain members of the industry.

9. Are there other ways these public benefits could be obtained?

There are no federal laws or rules regarding industrial mineral surface mining in Missouri. Therefore, there are no other agencies aside from the department’s Land Reclamation Program who are empowered to regulate non-coal surface mining in the state. Because this amendment changes the reclamation timeframes for complete site closure mandated by revisions to the “Act” there is no other way known to bring the rules into harmony with the existing legislation.

10. Who is affected by the rulemaking?

All open pit commercial surface mining operators who extract and sell industrial minerals as defined in the “Act” will be subject to this amendment. There are approximately 325 permitted and bonded open pit mining companies with approximately 600 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
Mr. Steve Rudloff – Executive Manager, Missouri Limestone Producers Association
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During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a

commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program’s email address is: [mining @dnr.mo.gov](mailto:mining@dnr.mo.gov).

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Formal written comments may be sent to either of the above individuals at the addresses provided. A formal public comment period of sixty (60) days is planned for these rules once they are published as proposed rules in the *Missouri Register*. Publication is expected to occur on or about April 1, 2004.

18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.060

Rule title "Inspection Authority and Right of Entry"

Type of rule (*Circle one*) New **X Amendment** Rescission

Submitted by (*Program director name and signature*)

Larry P. Coen

Review and approval

Legal Counsel _____ Date _____

Division Director _____ Date _____

1. What is the purpose of the rulemaking?

Simply to change a numerical error in the existing rule relating to inspection authority under the "Act".

2. Why is the rulemaking being proposed now?

The rulemaking is being proposed now in order to clean up an error in the existing rule.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- Reference the Code of Federal Regulations proposed for adoption.
- Provide a brief statement of why the federal mandate is being adopted.
- Provide the web link to the federal docket for this rule or rule amendment.
- The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

This amendment is simply a clean up to correct an existing statute reference error in the rule.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

No.

8. What would happen without the rulemaking?

Short Term:

The error referencing the applicable statute would continue.

Long Term:

Same as above.

9. Are there other ways these public benefits could be obtained?

No.

10. Who is affected by the rulemaking?

All commercial surface mining operators who extract and sell industrial minerals as defined in the “Act” will be subject to this amendment. There are approximately 400 permitted mining companies with approximately 900 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
Mr. Steve Rudloff – Executive Manager, Missouri Limestone Producers Association
Mr. Jerry Gregg – Environmental Manager, Central Stone Company
Mr. Chris Schwedtmann – Environmental Manager, APAC Missouri
Mr. Ted Heisel – Missouri Coalition for the Environment
Mr. David Taylor, P.C. – Environmental Attorney
Mr. Edwin Knight – Land Reclamation Commissioner
Mr. Ed Downey, P.C. – Industry Attorney
Mr. Richard Brownlee – Industry Attorney
Mr. Don Boos – MDNR, Water Pollution Control Program
Mr. Gerald Ross – Assistant Director MDC and Land Reclamation Commissioner
Ms. Kara Valentine – General counsel, MDNR/ALPD division
Mr. Larry Coen – Staff Director, Land Reclamation Program
Mr. Tom Cabanas – Mining Section Chief, Land Reclamation Program
Mr. Mike Larsen – Non-Coal Unit Chief, Land Reclamation Program
Mr. Bob Ziehmer - Missouri Department of Conservation

During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by

writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program's email address is: mining @dnr.mo.gov.

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Formal written comments may be sent to either of the above individuals at the addresses provided. A formal public comment period of sixty (60) days is planned for these rules once they are published as proposed rules in the *Missouri Register*. Publication is expected to occur on or about April 1, 2004.

18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.070

Rule title "Enforcement"

Type of rule (*Circle one*) New **X Amendment** Rescission

Submitted by (*Program director name and signature*)

Larry P. Coen

Review and approval

Legal Counsel _____ Date _____

Division Director _____ Date _____

1. What is the purpose of the rulemaking?

This amendment is being proposed to simply move the procedures for an informal assessment conference to a more appropriate part of the rules. There are no changes to the language from existing rule.

2. Why is the rulemaking being proposed now?

This is simply a housekeeping matter and will relocate the applicable language to a more appropriate part of the rules.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- **Reference the Code of Federal Regulations proposed for adoption.**
- **Provide a brief statement of why the federal mandate is being adopted.**
- **Provide the web link to the federal docket for this rule or rule amendment.**
- **The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.**

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

This amendment will simply locate the procedures for an informal assessment conference to a more appropriate portion of the rules. There are no changes to the existing rule language.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

None foreseen.

8. What would happen without the rulemaking?

Short Term:

The department and the industry have already been working without the rules since the changes were made to the “Act” in 2001. Without rules to follow, this can sometimes be difficult for both the industry and the department.

Long Term:

Same as above.

9. Are there other ways these public benefits could be obtained?

There are no federal laws or rules regarding industrial mineral surface mining in Missouri. Therefore, there are no other agencies aside from the department’s Land Reclamation Program who are empowered to regulate non-coal surface mining in the state.

10. Who is affected by the rulemaking?

All commercial surface mining operators who extract and sell industrial minerals as defined in the “Act” will be subject to this amendment. There are approximately 400 permitted mining companies with approximately 900 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
Mr. Steve Rudloff – Executive Manager, Missouri Limestone Producers Association
Mr. Jerry Gregg – Environmental Manager, Central Stone Company
Mr. Chris Schwedtmann – Environmental Manager, APAC Missouri
Mr. Ted Heisel – Missouri Coalition for the Environment
Mr. David Taylor, P.C. – Environmental Attorney
Mr. Edwin Knight – Land Reclamation Commissioner
Mr. Ed Downey, P.C. – Industry Attorney
Mr. Richard Brownlee – Industry Attorney
Mr. Don Boos – MDNR, Water Pollution Control Program
Mr. Gerald Ross – Assistant Director MDC and Land Reclamation Commissioner
Ms. Kara Valentine – General counsel, MDNR/ALPD division
Mr. Larry Coen – Staff Director, Land Reclamation Program
Mr. Tom Cabanas – Mining Section Chief, Land Reclamation Program
Mr. Mike Larsen – Non-Coal Unit Chief, Land Reclamation Program
Mr. Bob Ziehmer - Missouri Department of Conservation

During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment

by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program's email address is: mining @dnr.mo.gov.

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Formal written comments may be sent to either of the above individuals at the addresses provided. A formal public comment period of sixty (60) days is planned for these rules once they are published as proposed rules in the *Missouri Register*. Publication is expected to occur on or about April 1, 2004.

18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.080

Rule title "Hearings and Informal Conferences"

Type of rule (*Circle one*) New **X** Amendment Rescission

Submitted by (*Program director name and signature*)

Larry P. Coen

Review and approval

Legal Counsel _____ Date _____

Division Director _____ Date _____

1. What is the purpose of the rulemaking?

Due to legislative changes to the "Land Reclamation Act" (the "Act") in 2001, the rules corresponding to this legislation must also be changed. The Missouri DNR Land Reclamation Program is charged with permitting, inspecting and releasing operators throughout the life of their mining activities. The purpose of these rules is to conform with the changes made by the legislature in 2001 to various statutes contained within the Act under HB 453. This rule sets forth the procedures for public meetings (which is a new concept involving the public in the permitting process), hearings, and informal assessment conferences pursuant to sections 444.773 and 444.787, RSMo.

2. Why is the rulemaking being proposed now?

The rulemaking is being proposed now in order to comply with the changes made to the "Act" in 2001.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- Reference the Code of Federal Regulations proposed for adoption.
- Provide a brief statement of why the federal mandate is being adopted.
- Provide the web link to the federal docket for this rule or rule amendment.
- The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

A new concept within the rules is the allowance for an informal public meeting with opponents of mining permits and the mining company which did not exist before. The rules also revise the definition of “standing” for persons interested in opposing the issuance of mining permits through a formal hearing and set criteria for successfully opposing permit issuance. These rules allow for greater public input into the permitting process which did not exist before.

Further, this amendment defines the process that allows a landowner upon whose land a mining company is requesting a release of the reclamation bond, to request that a hearing be held prior to bond release if the landowner is in disagreement with the company that reclamation is complete in accordance with the law, rules, and permit.

The procedures for an informal assessment conference have been moved to this section for clarity and housekeeping. Finally, grammatical changes and numeric changes were made to this amendment for clarity and consistency purposes.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

Greater public participation into the permitting process is seen as the greatest effect of this proposed amendment. This is seen as a positive effect by the program.

8. What would happen without the rulemaking?

Short Term:

The department and the industry have already been working without the rules since the changes were made to the “Act” in 2001. Without rules to follow, this can sometimes be difficult for both the industry and the department.

Long Term:

Without rules in place the confusion on the part of the public as to what their role is in the permitting process can be a problem. Also, the industry is unsure as to what their role is and how to defend any permit action requests.

9. Are there other ways these public benefits could be obtained?

There are no federal laws or rules regarding industrial mineral surface mining in Missouri. Therefore, there are no other agencies aside from the department's Land Reclamation Program who are empowered to regulate non-coal surface mining in the state. Because this amendment revises the public's role in the permitting process as mandated by revisions to the "Act" there is no other way known to bring the rules into harmony with the existing legislation.

10. Who is affected by the rulemaking?

All commercial surface mining operators who extract and sell industrial minerals as defined in the "Act" will be subject to this amendment. There are approximately 400 permitted mining companies with approximately 900 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
Mr. Steve Rudloff – Executive Manager, Missouri Limestone Producers Association
Mr. Jerry Gregg – Environmental Manager, Central Stone Company
Mr. Chris Schwedtmann – Environmental Manager, APAC Missouri
Mr. Ted Heisel – Missouri Coalition for the Environment
Mr. David Taylor, P.C. – Environmental Attorney
Mr. Edwin Knight – Land Reclamation Commissioner
Mr. Ed Downey, P.C. – Industry Attorney
Mr. Richard Brownlee – Industry Attorney
Mr. Don Boos – MDNR, Water Pollution Control Program
Mr. Gerald Ross – Assistant Director MDC and Land Reclamation Commissioner
Ms. Kara Valentine – General counsel, MDNR/ALPD division
Mr. Larry Coen – Staff Director, Land Reclamation Program
Mr. Tom Cabanas – Mining Section Chief, Land Reclamation Program

Mr. Mike Larsen – Non-Coal Unit Chief, Land Reclamation Program
Mr. Bob Ziehmer - Missouri Department of Conservation

During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program’s email address is: mining @dnr.mo.gov.

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Formal written comments may be sent to either of the above individuals at the addresses provided. A formal public comment period of sixty (60) days is planned for these rules once they are published as proposed rules in the *Missouri Register*. Publication is expected to occur on or about April 1, 2004.

18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the

Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.

Regulatory Impact Report

Program Land Reclamation Program

Rule number 10 CSR 40 10.100

Rule title "Definitions"

Type of rule (*Circle one*) New **X Amendment** Rescission

Submitted by (*Program director name and signature*)

Larry P. Coen

Review and approval

Legal Counsel _____ Date _____

Division Director _____ Date _____

1. What is the purpose of the rulemaking?

Simply to clarify the definition of "industrial uses" and "overburden". This amendment will then assist industry and the program in correctly defining these two terms which have been unclear in the past. The amendment also corrects the numbering of the definitions contained within the rule.

2. Why is the rulemaking being proposed now?

The rulemaking is being proposed now in order to align the rule with statutory language and to clarify the definition of the two terms noted above.

3. Is this rule or rule amendment an adoption of federal mandates by reference without variance?

Yes _____

If yes:

- Reference the Code of Federal Regulations proposed for adoption.
- Provide a brief statement of why the federal mandate is being adopted.
- Provide the web link to the federal docket for this rule or rule amendment.
- The remainder of the questions do not need to be answered. The Regulatory Impact Report is complete.

No **X** _____

If no, complete the remainder of the Regulatory Impact Report questions.

4. What authority does DNR have to carry out this rulemaking?

The authority for the department and the Land Reclamation Commission is found at 444.530 and 444.767 RSMo.

5. What does the rulemaking require and how does it produce environmental benefits?

This amendment is simply a clarification of two terms used in the mining industry and to make certain numerical changes so that the rule is consistent.

6. What readily available information was used to develop the rulemaking?

This amendment was developed through the efforts of a workgroup made up of various stakeholders with an interest in this rulemaking. Throughout the rule workgroup process, the guidance used was primarily the revisions to the “Act” found in HB 453. The workgroup itself was made up of many professionals familiar with the mining industry, the laws which govern this industry, and the practical aspects of rule development.

The workgroup met on several occasions between the fall of 2001 and the spring of 2002 in order to construct a set of amendments to the rules that would effectively implement the changes made to the “Act”. Much discussion was held during these meetings in order to reach a consensus concerning the proposed rule language. This amendment represents one in a set of eight amendments that are being proposed as a rulemaking.

7. Are there other effects that may accompany the rulemaking?

No.

8. What would happen without the rulemaking?

Short Term:

The lack of clarity in defining the two terms referenced would continue.

Long Term:

Same as above.

9. Are there other ways these public benefits could be obtained?

No.

10. Who is affected by the rulemaking?

All commercial surface mining operators who extract and sell industrial minerals as defined in the “Act” will be subject to this amendment. There are approximately 400 permitted mining companies with approximately 900 individual mine locations throughout the state.

Landowners who extract sand and gravel from streams for their own use and local governments who extract sand and gravel from streams with their own equipment and personnel are both exempt by statute. This amendment will not impact their exemptions.

11. How much will the rulemaking cost?

The operators were part of the process of crafting the language of this amendment. They publicly explained to the Land Reclamation Commission that the cost of this amendment would be insignificant to their cost of mineral extraction. Likewise, the costs to public agencies is also insignificant.

12. What is the impact of this rulemaking on small businesses?

Executive Order 03-15 does not apply to this rulemaking because: This proposed amendment significantly codifies existing state law.

13. Does the rulemaking have any effect on state revenue?

No, there are no changes to fees or costs by this amendment to the state of Missouri.

14. Who was involved in developing the rulemaking?

The workgroup appointed by the Land Reclamation Commission to draft this amendment was made up of the following members:

Mr. Randy Scherr – Executive Director, Mining Industry Council
Mr. Steve Rudloff – Executive Manager, Missouri Limestone Producers Association
Mr. Jerry Gregg – Environmental Manager, Central Stone Company
Mr. Chris Schwedtmann – Environmental Manager, APAC Missouri
Mr. Ted Heisel – Missouri Coalition for the Environment
Mr. David Taylor, P.C. – Environmental Attorney
Mr. Edwin Knight – Land Reclamation Commissioner
Mr. Ed Downey, P.C. – Industry Attorney
Mr. Richard Brownlee – Industry Attorney
Mr. Don Boos – MDNR, Water Pollution Control Program
Mr. Gerald Ross – Assistant Director MDC and Land Reclamation Commissioner
Ms. Kara Valentine – General counsel, MDNR/ALPD division
Mr. Larry Coen – Staff Director, Land Reclamation Program
Mr. Tom Cabanas – Mining Section Chief, Land Reclamation Program
Mr. Mike Larsen – Non-Coal Unit Chief, Land Reclamation Program
Mr. Bob Ziehmer - Missouri Department of Conservation

During a public meeting before the Land Reclamation Commission held in July of 2002, representatives from the industry, the concerned environmental organizations, and representatives of public agencies were all given opportunities to comment about this amendment. Everyone who wished to comment was given the opportunity to do so either in person, in writing or as a member of a commenting organization. The commission considered all comments when a final decision was made by the commission in adopting this amendment in its current form.

15. How has the development of the rulemaking been shared with interested parties and the public at large?

The Missouri Land Reclamation Commission worked with various stakeholders and other interested parties who are affected by this amendment from the fall of 2001 to the spring of 2002. A workgroup made up of the individuals noted above reviewed all of the issues related to the changes made to the “Act” and came to consensus about the rule changes that correspond to the legislative changes made.

The Land Reclamation Commission devoted one special open public meeting to address the topic of this amendment and has included the rule changes in several of their open public meetings as an agenda item for discussion by anyone present. This culminated in the currently proposed amendment by way of a vote of the Land Reclamation Commission in October of 2002, and with verbal concurrence of each stakeholder group represented throughout the process.

16. Who may I contact to either ask questions or provide input on this rulemaking?

The contact for this amendment is Mr. Larry P. Coen or Mr. Mike Larsen with the Land Reclamation Program. Contact with the Land Reclamation Commission is through Mr. Larry P. Coen, staff director. Either of these individuals may be reached by calling (573) 751-4041 or by writing to: Land Reclamation Program; P.O. Box 176; Jefferson City, MO; 65102. The program's email address is: mining @dnr.mo.gov.

17. How can I provide formal comments on either the Regulatory Impact Report or the proposed rulemaking?

Formal written comments may be sent to either of the above individuals at the addresses provided. A formal public comment period of sixty (60) days is planned for these rules once they are published as proposed rules in the *Missouri Register*. Publication is expected to occur on or about April 1, 2004.

18. What is the draft schedule for this rulemaking?

The anticipated schedule for this rulemaking is as follows:

April 1, 2004 – Initial publication of the rulemaking in the *Missouri Register*. Begin the public comment period of sixty (60) days.

May 27, 2004 – A formal public hearing is planned before the Land Reclamation Commission concerning this proposed rulemaking. The hearing is planned for 1:00 p.m. on that date in the Bennet Spring/Roaring River conference room located at 1738 East Elm Street; Jefferson City, MO.

June 1, 2004 – Anticipated end of the public comment period.